

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 2547**

**Introduced by Assembly Member Leno**

**(Coauthors: Assembly Members Beall, Coto, DeSaulnier, Hancock, Huffman, Lieber, Mullin, Ruskin, Swanson, Torrico, and Wolk)**

February 22, 2008

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An act to amend Sections 8670.3, 8670.13, 8670.28, 8670.30, 8670.48, 8670.49, and 8670.55 of, and to add Sections 8670.11 and 8670.74 to, the Government Code, relating to oil spills, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2547, as amended, Leno. Oil spill prevention and response.

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law defines “best achievable technology,” “dedicated response resources” *resources*,” and “nondedicated response resources,” for purposes of the act.

Existing law authorizes an oil spill response organization (OSRO), as defined, to apply to the administrator for a rating of that organization’s response capabilities. Under existing law, upon receiving and reviewing a completed application, the administrator is required to

rate the organization based on its satisfactory compliance with specified criteria.

This bill would revise the definition of “best achievable technology” to include that technology that provides the greatest degree of protection taking into consideration processes currently contained in any oil spill contingency or response plan anywhere in the world. The bill would revise the definition of “dedicated response resources” to provide that, for the port areas, as defined, of San Francisco, Los Angeles/Long Beach and San Diego, “dedicated response resources” shall additionally mean equipment and personnel permanently located in each of those areas. The bill would revise the definition of “nondedicated response resources” to provide that identified response resources located outside of the state are nondedicated response resources.

This bill would include as additional elements in rating an OSRO for compliance with specified criteria, the dedicated response resources the OSRO controls, as defined, in the area in which it intends to operate and the capability of the OSRO to provide best achievable protection.

The bill would require, instead of authorize, the administrator to require a rated OSRO to demonstrate that it can deploy the response resources required to meet the OSRO’s oil spill contingency plan. The bill would also require, instead of authorize, the administrator to require the satisfactory completion of one unannounced drill of an OSRO prior to modifying, renewing, or reinstating a rating.

This bill would require the administrator to establish a universal mutual aid agreement for the purpose of regulating the terms under which an owner or operator of a vessel or marine facility, or ~~rated oil spill response organization~~ (OSRO) OSRO, may use the response resources of another owner or operator, or rated OSRO.

This bill would require the administrator to award and administer competitive grants for the development of improved processes and technologies for oil spill prevention, containment, and cleanup. The grants would be known as the California Oil Spill Prevention and Cleanup Technology Grants and would provide funds to eligible recipients for research, testing, and capital matching grants for bringing emerging technologies to the marketplace. The bill would require the administrator, beginning January 1, 2010, and every 5 years thereafter, to prepare and make available to the Legislature a comprehensive evaluation of emerging technologies that aid prevention, response, containment, cleanup, and wildlife rehabilitation.

This bill would require the administrator to additionally expend moneys from the Oil Spill Response Trust Fund, a continuously appropriated fund for specified purposes, to cover the uncompensated response and cleanup costs resulting from providing resources through the use of a universal mutual aid agreement, and to pay for technology grants, thereby making an appropriation.

This bill would require the administrator to adopt and implement regulations regarding a minimum containment response required for oil spills or discharges that occur during low visibility conditions and for marine groundings, collisions, and allisions that involve a tank vessel or nontank vessel *and that result in the threat of a discharge of oil, as specified. The bill would require the regulations to authorize the administrator to waive the minimum containment response under specified unsafe conditions.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8670.3 of the Government Code is  
2 amended to read:  
3 8670.3. Unless the context requires otherwise, the following  
4 definitions shall govern the construction of this chapter:  
5 (a) “Administrator” means the administrator for oil spill response  
6 appointed by the Governor pursuant to Section 8670.4.  
7 (b) (1) “Best achievable protection” means the highest level of  
8 protection that can be achieved through both the use of the best  
9 achievable technology and those manpower levels, training  
10 procedures, and operational methods that provide the greatest  
11 degree of protection achievable. The administrator’s determination  
12 of which measures provide the best achievable protection shall be  
13 guided by the critical need to protect valuable coastal resources  
14 and marine waters, while also considering all of the following:  
15 (A) The protection provided by the measure.  
16 (B) The technological achievability of the measure.  
17 (C) The cost of the measure.  
18 (2) The administrator shall not use a cost-benefit or  
19 cost-effectiveness analysis or any particular method of analysis in  
20 determining which measures provide the best achievable protection.  
21 The administrator shall instead, when determining which measures

1 provide best achievable protection, give reasonable consideration  
2 to the protection provided by the measures, the technological  
3 achievability of the measures, and the cost of the measures when  
4 establishing the requirements to provide the best achievable  
5 protection for coastal and marine resources.

6 (c) (1) “Best achievable technology” means that technology  
7 that provides the greatest degree of protection, taking into  
8 consideration both of the following:

9 (A) Processes that are being developed, or could feasibly be  
10 developed anywhere in the world, given overall reasonable  
11 expenditures on research and development.

12 (B) Processes that are currently in use or contained in any oil  
13 spill contingency or response plan anywhere in the world.

14 (C) This subdivision does not require that a particular technology  
15 shall first be used elsewhere in the world prior to being required  
16 for use or deployment by the administrator.

17 (2) In determining what is the best achievable technology  
18 pursuant to this chapter, the administrator shall consider the  
19 effectiveness and engineering feasibility of the technology.

20 (d) (1) “Dedicated response resources” means equipment and  
21 personnel committed solely to oil spill response, containment, and  
22 cleanup that are not used for any other activity that would adversely  
23 affect the ability of that equipment and personnel to provide oil  
24 spill response services in the timeframes for which the equipment  
25 and personnel are rated.

26 (2) For the port areas, as defined in area contingency plans of  
27 San Francisco, Los Angeles/Long Beach, and San Diego,  
28 “dedicated response resources” shall, in addition to the other  
29 criteria in this subdivision, mean equipment and personnel  
30 permanently located in each of those areas. Personnel may be  
31 characterized as a dedicated resource only when on duty or on call.  
32 On-call personnel may be characterized as a dedicated resource if  
33 an on-call employee is all of the following:

34 (A) Required to wear a functioning pager or other means of  
35 immediate communication at all times.

36 (B) Required to remain in close geographic proximity to the  
37 OSRO’s facility or nonpersonnel dedicated response resource so  
38 as to be capable of reporting to either within 30 minutes.

39 (C) Required to carry approved work clothing and necessary  
40 identification to access the OSRO’s facility or the site of a spill.

(D) Required to maintain the United States Coast Guard fitness for duty requirements referenced in Part 95 of Title 33 of the Code of Federal Regulations.

(e) “Environmentally sensitive area” means an area defined pursuant to the applicable area contingency plans, as created and revised by the Coast Guard and the administrator.

(f) “Local government” means a chartered or general law city, a chartered or general law county, or a city and county.

(g) (1) “Marine facility” means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:

(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.

(2) For the purposes of this chapter, “marine facility” includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(3) For the purposes of this chapter, “marine facility” does not include a small craft refueling dock.

(h) (1) “Marine terminal” means a marine facility used for transferring oil to or from a tank ship or tank barge.

(2) “Marine terminal” includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (m) of Section 25270.2 of the Health and Safety Code.

(i) “Marine waters” means those waters subject to tidal influence, and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(j) “Mobile transfer unit” means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters.

(k) “Nondedicated response resources” means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

1 Identified response resources located outside of California are  
2 nondedicated response resources.

3 (l) “Nonpersistent oil” means a petroleum-based oil, such as  
4 gasoline, diesel, or jet fuel, that evaporates relatively quickly and  
5 is an oil with hydrocarbon fractions, at least 50 percent of which,  
6 by volume, distills at a temperature of 645° Fahrenheit, and at least  
7 95 percent of which, by volume, distills at a temperature of 700°  
8 Fahrenheit.

9 (m) “Nontank vessel” means a vessel of 300 gross tons or greater  
10 that carries oil, but does not carry that oil as cargo.

11 (n) “Oil” means any kind of petroleum, liquid hydrocarbons,  
12 or petroleum products or any fraction or residues therefrom,  
13 including, but not limited to, crude oil, bunker fuel, gasoline, diesel  
14 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and  
15 liquid distillates from unprocessed natural gas.

16 (o) “Oil spill cleanup agent” means a chemical, or any other  
17 substance, used for removing, dispersing, or otherwise cleaning  
18 up oil or any residual products of petroleum in, or on, any of the  
19 waters of the state.

20 (p) “Oil spill contingency plan” or “contingency plan” means  
21 the oil spill contingency plan required pursuant to Article 5  
22 (commencing with Section 8670.28).

23 (q) (1) “Oil Spill Response Organization” or “OSRO” means  
24 an individual, organization, association, cooperative, or other entity  
25 that provides, or intends to provide, equipment, personnel, supplies,  
26 or other services directly related to oil spill containment, cleanup,  
27 or removal activities.

28 (2) A “rated OSRO” means an OSRO that has received a  
29 satisfactory rating from the administrator for a particular rating  
30 level established pursuant to Section 8670.30.

31 (3) “OSRO” does not include an owner or operator with an oil  
32 spill contingency plan approved by the administrator or an entity  
33 that only provides spill management services, or who provides  
34 services or equipment that are only ancillary to containment,  
35 cleanup, or removal activities.

36 (r) “Onshore facility” means a facility of any kind that is located  
37 entirely on lands not covered by marine waters.

38 (s) (1) “Owner” or “operator” means any of the following:

39 (A) In the case of a vessel, a person who owns, has an ownership  
40 interest in, operates, charters by demise, or leases, the vessel.

1 (B) In the case of a marine facility, a person who owns, has an  
2 ownership interest in, or operates the marine facility.

3 (C) Except as provided in subparagraph (D), in the case of a  
4 vessel or marine facility, where title or control was conveyed due  
5 to bankruptcy, foreclosure, tax delinquency, abandonment, or  
6 similar means to an entity of state or local government, a person  
7 who owned, held an ownership interest in, operated, or otherwise  
8 controlled activities concerning the vessel or marine facility  
9 immediately beforehand.

10 (D) An entity of the state or local government that acquired  
11 ownership or control of a vessel or marine facility, when the entity  
12 of the state or local government has caused or contributed to a spill  
13 or discharge of oil into marine waters.

14 (2) "Owner" or "operator" does not include a person who,  
15 without participating in the management of a vessel or marine  
16 facility, holds indicia of ownership primarily to protect the person's  
17 security interest in the vessel or marine facility.

18 (3) "Operator" does not include a person who owns the land  
19 underlying a marine facility or the facility itself if the person is  
20 not involved in the operations of the facility.

21 (t) "Person" means an individual, trust, firm, joint stock  
22 company, or corporation, including, but not limited to, a  
23 government corporation, partnership, and association. "Person"  
24 also includes a city, county, city and county, district, and the state  
25 or any department or agency thereof, and the federal government,  
26 or any department or agency thereof, to the extent permitted by  
27 law.

28 (u) "Pipeline" means a pipeline used at any time to transport  
29 oil.

30 (v) "Reasonable worst case spill" means, for the purposes of  
31 preparing contingency plans for a nontank vessel, the total volume  
32 of the largest fuel tank on the nontank vessel.

33 (w) "Responsible party" or "party responsible" means any of  
34 the following:

35 (1) The owner or transporter of oil or a person or entity accepting  
36 responsibility for the oil.

37 (2) The owner, operator, or lessee of, or a person that charts  
38 by demise, a vessel or marine facility, or a person or entity  
39 accepting responsibility for the vessel or marine facility.

(x) “Small craft” means a vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

(y) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

(z) “Small marine fueling facility” means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(aa) “Spill” or “discharge” means a release of at least one barrel (42 gallons) of oil into marine waters that is not authorized by a federal, state, or local government entity.

(ab) “State Interagency Oil Spill Committee” means the committee established pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ac) “California oil spill contingency plan” means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.

(ad) “Tank barge” means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(ae) “Tank ship” means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(af) “Tank vessel” means a tank ship or tank barge.



1 (ag) "Vessel" means a watercraft or ship of any kind, including  
2 a structure adapted to be navigated from place to place for the  
3 transportation of merchandise or persons.

4 (ah) "Vessel carrying oil as secondary cargo" means a vessel  
5 that does not carry oil as a primary cargo, but does carry oil in  
6 bulk as cargo or cargo residue.

7 SEC. 2. Section 8670.11 is added to the Government Code, to  
8 read:

9 8670.11. (a) The administrator shall establish a universal  
10 mutual aid agreement for the purpose of regulating the terms under  
11 which an owner or operator or rated OSRO may utilize the response  
12 resources of another owner or operator or rated OSRO.

13 (b) Each owner or operator or rated OSRO shall be subject to  
14 the provisions of the universal mutual aid agreement.

15 (c) The responsible party shall be liable for all costs incurred  
16 by the administrator and by the owner or operator or rated OSRO  
17 that is called upon to provide response resources through the  
18 utilization of the universal mutual aid agreement.

19 (d) If a responsible party cannot be identified and sufficient  
20 federal oil spill response funds are not available or will not be  
21 available in an adequate period of time as determined by the  
22 administrator, costs incurred by an owner or operator or rated  
23 OSRO due to the provision of response resources under the terms  
24 of the universal mutual aid agreement may be paid from the Oil  
25 Spill Response Trust Fund.

26 (e) The terms of the universal mutual aid agreement shall reflect  
27 market conditions and allow for the reasonable compensation of  
28 the owner or operator or rated OSRO that is called upon to provide  
29 response resources through the utilization of the universal mutual  
30 aid agreement.

31 (f) Response resources available to an owner or operator or  
32 rated OSRO through the universal mutual aid agreement shall not  
33 be considered by the administrator to be a dedicated response  
34 resource or be considered in the rating of another OSRO or in  
35 another ~~owner~~ owner's or operator's contingency plan.

36 SEC. 3. Section 8670.13 of the Government Code is amended  
37 to read:

38 8670.13. (a) The administrator shall periodically evaluate the  
39 feasibility of requiring new technologies to aid prevention,  
40 response, containment, cleanup and wildlife rehabilitation.

(b) Beginning January 1, 2010, and every five years thereafter, the administrator shall prepare and make available to the Legislature a comprehensive evaluation of emerging technologies that aid prevention, response, containment, cleanup, and wildlife rehabilitation. The purpose of the evaluation is to assess which emerging technologies show the most promise and to provide policy guidance for investments made through California Oil Spill Prevention and Cleanup Technology Grants pursuant to Section 8670.74.

SEC. 4. Section 8670.28 of the Government Code is amended to read:

8670.28. (a) The administrator, taking into consideration the marine facility or vessel contingency plan requirements of the national and California contingency plans, the State Lands Commission, the State Fire Marshal, and the California Coastal Commission shall adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented under this article. All regulations shall be developed in consultation with the State Interagency Oil Spill Committee, and the Oil Spill Technical Advisory Committee and shall be consistent with the California oil spill contingency plan and not in conflict with the National Contingency Plan. The regulations shall provide for the best achievable protection of coastal and marine resources. The regulations shall permit the development, application, and use of an oil spill contingency plan for similar vessels, pipelines, terminals, and facilities within a single company or organization, and across companies and organizations. The regulations shall, at a minimum, ensure all of the following:

(1) All areas of the marine waters of the state are at all times protected by prevention, response, containment, and cleanup equipment and operations. For the purposes of this section, “marine waters” includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(2) Standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state.

(3) (A) A minimum containment response is required for all oil spills or discharges that occur during low visibility conditions where the area impacted by the spill or the spill trajectory cannot be determined by visual observation.

1     (B) Notwithstanding subparagraph (A), the regulations shall  
2 authorize the administrator to waive the minimum containment  
3 response required by subparagraph (A) during low visibility  
4 conditions if the conditions at the site of the oil spill are determined  
5 by the administrator to be beyond reasonable safety limits for  
6 response personnel.

7     (4) (A) A minimum containment response is required for all  
8 marine groundings, collisions, and allisions that involve a tank  
9 ~~vessel or nontank vessel~~ vessel or nontank vessel, and that result  
10 in the threat of a discharge of oil. For purposes of this paragraph,  
11 the threat of a discharge of oil includes, but is not limited to, an  
12 incident in which any of the following occurs:

13     (i) The integrity of any tank on the vessel that contains oil is  
14 adversely affected or appears to have been adversely affected.

15     (ii) The integrity of the vessel's hull in the vicinity of any tank  
16 on the vessel that contains oil is adversely affected or appears to  
17 have been adversely affected.

18     (iii) The vessel could capsize, founder, or sink.

19     (iv) The incident creates or has the potential to create an oil  
20 spill hazard to the environment.

21     (B) Notwithstanding subparagraph (A), the regulations shall  
22 authorize the administrator to waive the minimum containment  
23 response required by subparagraph (A) if the conditions at the  
24 site of the grounding, collision, or allision are determined by the  
25 administrator to be beyond reasonable safety limits for response  
26 personnel.

27     (5) All appropriate personnel employed by operators required  
28 to have a contingency plan are to receive training in oil spill  
29 response and cleanup equipment usage and operations.

30     (6) Each oil spill contingency plan provides for appropriate  
31 financial or contractual arrangements for all necessary equipment  
32 and services, for the response, containment, and cleanup of a  
33 reasonable worst case oil spill scenario for each part of the coast  
34 the plan addresses.

35     (7) Each oil spill contingency plan demonstrates that all  
36 protection measures are being taken to reduce the possibility of  
37 an oil spill occurring as a result of the operation of the marine  
38 facility or vessel. The protection measures shall include, but not  
39 be limited to, response to disabled vessels and an identification of

1 those measures taken to comply with requirements of Division 7.8  
2 (commencing with Section 8750) of the Public Resources Code.

3 (8) Each oil spill contingency plan identifies the types of  
4 equipment that can be used, the location of the equipment, and the  
5 time taken to deliver the equipment.

6 (9) Each marine facility conducts a hazard and operability study  
7 to identify the hazards associated with the operation of the facility,  
8 including the use of the facility by vessels, due to operating error,  
9 equipment failure, and external events. For the hazards identified  
10 in the hazard and operability studies, the facility shall conduct an  
11 offsite consequence analysis that, for the most likely hazards,  
12 assumes pessimistic water and air dispersion and other adverse  
13 environmental conditions.

14 (10) Each oil spill contingency plan contains a list of contacts  
15 to call in the event of a drill, threatened discharge of oil, or  
16 discharge of oil.

17 (11) Each oil spill contingency plan identifies the measures to  
18 be taken to protect the recreational and environmentally sensitive  
19 areas that would be threatened by a reasonable worst case oil spill  
20 scenario.

21 (12) Standards for determining a reasonable worst case oil spill.

22 (13) Each oil spill contingency plan includes a timetable for  
23 implementing the plan.

24 (14) Each oil spill contingency plan specifies an agent for service  
25 of process. The agent shall be located in this state.

26 (b) The regulations and guidelines adopted pursuant to this  
27 section shall also include provisions to provide public review and  
28 comment on submitted oil spill contingency plans prior to approval.

29 (c) The regulations adopted pursuant to this section shall  
30 specifically address the types of equipment that will be necessary,  
31 the maximum time that will be allowed for deployment, the  
32 maximum distance to cooperating response entities, the amounts  
33 of dispersant, and the maximum time required for application,  
34 should the use of dispersants be approved. Upon a determination  
35 by the administrator that booming is appropriate at the site and  
36 necessary to provide best achievable protection, the regulations  
37 shall require that vessels engaged in lightering operations be  
38 boomed prior to the commencement of operations.

39 (d) The administrator shall adopt regulations and guidelines for  
40 oil spill contingency plans with regard to mobile transfer units,

1 small marine fueling facilities, and vessels carrying oil as secondary  
2 cargo that acknowledge the reduced risk of damage from oil spills  
3 from those units, facilities, and vessels while maintaining the best  
4 achievable protection for the public health and safety and the  
5 environment.

6 (e) The regulations adopted pursuant to subdivision (d) shall be  
7 exempt from review by the Office of Administrative Law.  
8 Subsequent amendments and changes to the regulations shall not  
9 be exempt from Office of Administrative Law review.

10 SEC. 5. Section 8670.30 of the Government Code is amended  
11 to read:

12 8670.30. (a) An oil spill response organization may apply to  
13 the administrator for a rating of that OSRO's response capabilities.  
14 The administrator shall establish rating levels for classifying  
15 OSROs pursuant to subdivision (b).

16 (b) Upon receiving a completed application for rating, the  
17 administrator shall review the application and rate the OSRO based  
18 on the OSRO's satisfactory compliance with criteria established  
19 by the administrator, which shall include, but is not limited to, all  
20 of the following elements:

21 (1) The geographic region or regions of the state where the  
22 OSRO intends to operate.

23 (2) Timeframes for having response resources on-scene and  
24 deployed.

25 (3) The type of equipment that the OSRO will use and the  
26 location of the stored equipment.

27 (4) The volume of oil that the OSRO is capable of recovering  
28 and containing.

29 (5) The dedicated response resources the OSRO controls in the  
30 area it intends to operate. For purposes of this paragraph, "controls"  
31 means equipment owned by the OSRO and located in the area and  
32 personnel employed by the OSRO and located in the area.

33 (6) The capability of the OSRO to provide best achievable  
34 protection.

35 (c) The administrator shall not issue a rating until the applicant  
36 OSRO completes an unannounced drill. The administrator may  
37 call a drill for every distinct geographic area in which the OSRO  
38 requests a rating. The drill shall test the resources and response  
39 capabilities of the OSRO, including, but not limited to, on water  
40 containment and recovery, environmentally sensitive habitat

1 protection, and storage. If an OSRO fails to successfully complete  
2 a drill, the administrator shall not issue the requested rating, but  
3 the administrator may rate the OSRO at a rating lesser than the  
4 rating sought with the application. If an OSRO is denied a  
5 requested rating, the OSRO may reapply for rating.

6 (d) A rating issued pursuant to this section shall be valid for  
7 three years unless modified, suspended, or revoked. The  
8 administrator shall review the rating of each rated OSRO at least  
9 once every three years. The administrator shall not renew a rating  
10 unless the OSRO meets criteria established by the administrator,  
11 including, at a minimum, that the rated OSRO periodically tests  
12 and drills itself, including testing protection of environmentally  
13 sensitive sites, during the three-year period.

14 (e) The administrator shall require a rated OSRO to demonstrate  
15 that the rated OSRO can deploy the response resources required  
16 to meet the applicable provisions of an oil spill contingency plan  
17 in which the OSRO is listed. These demonstrations may be  
18 achieved through inspections, announced and unannounced drills,  
19 or by any other means.

20 (f) (1) Except as provided in paragraph (6), each rated OSRO  
21 shall satisfactorily complete at least one unannounced drill every  
22 three years after receiving its rating.

23 (2) The administrator may modify, suspend, or revoke an  
24 OSRO's rating if a rated OSRO fails to satisfactorily complete a  
25 drill.

26 (3) The administrator shall require the satisfactory completion  
27 of one unannounced drill of each rated OSRO prior to being  
28 granted a modified rating, for renewal, or prior to the reinstatement  
29 of a revoked or suspended rating.

30 (4) A drill for the protection of environmentally sensitive areas  
31 shall conform as close as possible to the response that would occur  
32 during a spill but sensitive sites shall not be damaged during the  
33 drill.

34 (5) The response resources to be deployed by a rated OSRO  
35 within the first six hours of a spill or drill shall be dedicated  
36 response resources. This requirement does not preclude a rated  
37 OSRO from bringing in additional response resources. The  
38 administrator may, by regulation, permit a lesser requirement for  
39 dedicated or OSRO owned and controlled response resources for  
40 shoreline protection.

1 (6) The administrator may determine that actual spill response  
2 performance may be substituted in lieu of a drill.

3 (7) The administrator shall issue a written report evaluating the  
4 performance of the OSRO after every unannounced drill called by  
5 the administrator.

6 (8) The administrator shall determine whether an unannounced  
7 drill called upon an OSRO by a federal agency qualifies as an  
8 unannounced drill for the purposes of this subdivision.

9 (g) Each rated OSRO shall provide reasonable notice to the  
10 administrator about each future drill, and the administrator, or his  
11 or her designee, may attend the drill.

12 (h) The costs incurred by an OSRO to comply with this section  
13 and the regulations adopted pursuant to this section, including  
14 drills called by the administrator, shall be the responsibility of the  
15 OSRO. All local, state, and federal agency costs incurred in  
16 conjunction with participation in a drill shall be borne by each  
17 respective agency.

18 (i) (1) A rating awarded pursuant to this section is personal and  
19 applies only to the OSRO that receives that rating and the rating  
20 is not transferable, assignable, or assumable. A rating does not  
21 constitute a possessory interest in real or personal property.

22 (2) If there is a change in ownership or control of the OSRO,  
23 the rating of that OSRO is null and void and the OSRO shall file  
24 a new application for a rating pursuant to this section.

25 (3) For purposes of this subdivision, a “change in ownership or  
26 control” includes, but is not limited to, a change in corporate status,  
27 or a transfer of ownership that changes the majority control of  
28 voting within the entity.

29 (j) The administrator may charge a reasonable fee to process an  
30 application for, or renewal of, a rating.

31 (k) The administrator shall adopt regulations to implement this  
32 section as appropriate. At a minimum, the regulations shall  
33 appropriately address all of the following:

34 (1) The level of resources that constitute best achievable  
35 protection.

36 (2) Criteria for successful completion of a drill.

37 (3) The amount and type of response resources that are required  
38 to be available to respond to a particular volume of spilled oil  
39 during specific timeframes within a particular region.

40 (4) Regional requirements.

1 (5) Training.

2 (6) The process for applying for a rating, and for suspension,  
3 revocation, appeal, or other modification of a rating.

4 (7) Ownership and employment of response resources.

5 (8) Conditions for canceling a drill due to hazardous or other  
6 operational circumstances.

7 (l) A letter of approval issued from the administrator before  
8 January 1, 2002, that rates an OSRO shall be deemed to meet the  
9 requirements of this section for three years from the date of the  
10 letter's issuance or until January 1, 2003, whichever date occurs  
11 later.

12 SEC. 6. Section 8670.48 of the Government Code is amended  
13 to read:

14 8670.48. (a) (1) A uniform oil spill response fee in an amount  
15 not exceeding twenty-five cents (\$0.25) for each barrel of  
16 petroleum products, as set by the administrator pursuant to  
17 subdivision (f), shall be imposed upon a person owning petroleum  
18 products at the time the petroleum products are received at a marine  
19 terminal within this state by means of a vessel from a point of  
20 origin outside this state. The fee shall be remitted to the State Board  
21 of Equalization by the terminal operator on the 25th day of each  
22 month based upon the number of barrels of petroleum products  
23 received during the preceding month.

24 (2) An owner of petroleum products is liable for the fee until it  
25 has been paid to the state, except that payment to a marine terminal  
26 operator registered under this chapter is sufficient to relieve the  
27 owner from further liability for the fee.

28 (b) An operator of a pipeline shall also pay a uniform oil spill  
29 response fee in an amount not exceeding twenty-five cents (\$0.25)  
30 for each barrel of petroleum products, as set by the administrator  
31 pursuant to subdivision (f), transported into the state by means of  
32 a pipeline operating across, under, or through the marine waters  
33 of the state. The fee shall be paid on the 25th day of each month  
34 based upon the number of barrels of petroleum products so  
35 transported into the state during the preceding month.

36 (c) (1) An operator of a refinery shall pay a uniform oil spill  
37 response fee in an amount not exceeding twenty-five cents (\$0.25)  
38 for each barrel of crude oil, as set by the administrator pursuant  
39 to subdivision (f), received at a refinery within the state. The fee



1 shall be paid on the 25th day of each month based upon the number  
2 of barrels of crude oil so received during the preceding month.

3 (2) The fee shall not be imposed by a refiner, or a person or  
4 entity acting as an agent for a refiner, on crude oil produced by an  
5 independent crude oil producer as defined in paragraph (3). The  
6 board shall not identify a company as exempt from the fee  
7 requirements of this section if that company was reorganized, sold,  
8 or otherwise modified with the intent of circumventing the  
9 requirements of this section.

10 (3) For purposes of this chapter, “independent crude oil  
11 producer” means a person or entity producing crude oil within this  
12 state who does not refine crude oil into product, and who does not  
13 possess or own a retail gasoline marketing facility.

14 (d) A marine terminal operator shall pay a uniform oil spill  
15 response fee in an amount not exceeding twenty-five cents (\$0.25),  
16 in accordance with subdivision (g), for each barrel of crude oil, as  
17 set by the administrator pursuant to subdivision (f), that is  
18 transported from within this state by means of marine vessel to a  
19 destination outside this state.

20 (e) A operator of a pipeline shall pay a uniform oil spill response  
21 fee in an amount not exceeding twenty-five cents (\$0.25), in  
22 accordance with subdivision (g), for each barrel of crude oil, as  
23 set by the administrator pursuant to subdivision (f), transported  
24 out of the state by pipeline.

25 (f) (1) The fees required pursuant to this section shall be  
26 collected during a period for which the administrator determines  
27 that collection is necessary for any of the following reasons:

28 (A) The amount in the fund is less than or equal to 95 percent  
29 of the designated amount specified in subdivision (a) of Section  
30 46012 of the Revenue and Taxation Code.

31 (B) Additional money is required to pay for the purposes  
32 specified in subdivision (k).

33 (C) The revenue is necessary to repay a draw on a financial  
34 security obtained by the Treasurer pursuant to subdivision (o) or  
35 borrowing by the Treasurer pursuant to Article 7.5 (commencing  
36 with Section 8670.53.1) including any principal, interest, premium,  
37 fees, charges, or costs of any kind incurred in connection with  
38 those borrowings or financial security.

39 (2) The administrator, in consultation with the State Board of  
40 Equalization, and with the approval of the Treasurer, may direct

1 the State Board of Equalization to cease collecting the fee when  
2 the administrator determines that further collection of the fee is  
3 not necessary for the purposes specified in paragraph (1).

4 (3) The administrator, in consultation with the State Board of  
5 Equalization, shall set the amount of the oil spill response fees.  
6 The oil spill response fees shall be imposed on all feepayers in the  
7 same amount. The administrator shall not set the amount of the  
8 fee at less than twenty-five cents (\$0.25) for each barrel of  
9 petroleum products or crude oil, unless the administrator finds that  
10 the assessment of a lesser fee will cause the fund to reach the  
11 designated amount specified in subdivision (a) of Section 46012  
12 of the Revenue and Taxation Code within four months. The fee  
13 shall not be less than twenty-five cents (\$0.25) for each barrel of  
14 petroleum products or crude oil if the administrator has drawn  
15 upon the financial security obtained by the Treasurer pursuant to  
16 subdivision (o) or if the Treasurer has borrowed money pursuant  
17 to Article 7.5 (commencing with Section 8670.53.1) and principal,  
18 interest, premium, fees, charges, or costs of any kind incurred in  
19 connection with those borrowings remain outstanding or unpaid,  
20 unless the Treasurer has certified to the administrator that the  
21 money in the fund is not necessary for the purposes specified in  
22 paragraph (1).

23 (g) The fees imposed by subdivisions (d) and (e) shall be  
24 imposed in any calendar year beginning the month following the  
25 month when the total cumulative year-to-date barrels of crude oil  
26 transported outside the state by all feepayers by means of vessel  
27 or pipeline exceeds 6 percent by volume of the total barrels of  
28 crude oil and petroleum products subject to oil spill response fees  
29 under subdivisions (a), (b), and (c) for the prior calendar year.

30 (h) For purposes of this chapter, “designated amount” means  
31 the amounts specified in Section 46012 of the Revenue and  
32 Taxation Code.

33 (i) The administrator, in consultation with the State Board of  
34 Equalization and with the approval of the Treasurer, shall authorize  
35 refunds of any money collected that is not necessary for the  
36 purposes specified in paragraph (1) of subdivision (f). The State  
37 Board of Equalization, as directed by the administrator, and in  
38 accordance with Section 46653 of the Revenue and Taxation Code,  
39 shall refund the excess amount of fees collected to each feepayer  
40 who paid the fee to the state, in proportion to the amount that each

1 feepayer paid into the fund during the preceding 12 monthly  
2 reporting periods in which there was a fee due, including the month  
3 in which the fund exceeded the specified amount. If the total  
4 amount of money in the fund exceeds the amount specified in this  
5 subdivision by 10 percent or less, refunds need not be ordered by  
6 the administrator. This section does not require the refund of excess  
7 fees as provided in this subdivision more frequently than once  
8 each year.

9 (j) The State Board of Equalization shall collect the fee and  
10 adopt regulations implementing the fee collection program. All  
11 fees collected pursuant to this section shall be deposited in the Oil  
12 Spill Response Trust Fund.

13 (k) The fee described in this section shall be collected solely  
14 for any of the following purposes:

15 (1) To provide funds to cover promptly the costs of response,  
16 containment, and cleanup of oil spills into marine waters, including  
17 damage assessment costs, and wildlife rehabilitation as provided  
18 in Section 8670.61.5.

19 (2) To cover response and cleanup costs and other damages  
20 suffered by the state or other persons or entities from oil spills into  
21 marine waters, which cannot otherwise be compensated by  
22 responsible parties or the federal government, including, but not  
23 limited to, an owner or operator, or rated OSRO, that is called  
24 upon to provide response resources through the utilization of the  
25 universal mutual aid agreement pursuant to Section 8670.11.

26 (3) To pay claims for damages pursuant to Section 8670.51.

27 (4) To pay claims for damages, except for damages described  
28 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant  
29 to Section 8670.51.1.

30 (5) To pay for the cost of obtaining financial security in the  
31 amount specified in subdivision (b) of Section 46012 of the  
32 Revenue and Taxation Code, as authorized by subdivision (o).

33 (6) To pay indemnity and related costs and expenses as  
34 authorized by Section 8670.56.6.

35 (7) To pay principal, interest, premium, if any, and fees, charges,  
36 and costs of any kind incurred in connection with moneys drawn  
37 by the administrator on the financial security obtained by the  
38 Treasurer pursuant to subdivision (o) or borrowed by the Treasurer  
39 pursuant to Article 7.5 (commencing with Section 8670.53.1).

1 (8) To pay for the costs of rescue, medical treatment,  
2 rehabilitation, and disposition of oiled wildlife, as incurred by the  
3 network of oiled wildlife rescue and rehabilitation stations created  
4 pursuant to Section 8670.37.5.

5 (9) To pay for the costs to administer and award California Oil  
6 Spill Prevention and Cleanup Technology Grants pursuant to  
7 Section 8670.74.

8 (l) (1) The interest that the state earns on the funds deposited  
9 into the Oil Spill Response Trust Fund shall be deposited in the  
10 fund and shall be used to maintain the fund at the designated  
11 amount specified in subdivision (a) of Section 46012 of the  
12 Revenue and Taxation Code. Interest earned until July 1, 1998,  
13 on funds deposited pursuant to subdivision (a) of Section 46012  
14 of the Revenue and Taxation Code, as determined jointly by the  
15 Controller and the Director of Finance, shall be available upon  
16 appropriation by the Legislature in the Budget Act to establish,  
17 equip, operate, and maintain the network of rescue and  
18 rehabilitation stations for oiled wildlife as described in Section  
19 8670.37.5 and to support technology development and research  
20 related to oiled wildlife care. Interest earned on the financial  
21 security portion of the fund, required to be accessible pursuant to  
22 subdivision (b) of Section 46012 of the Revenue and Taxation  
23 Code shall not be available for that purpose. If the amount in the  
24 fund exceeds that designated amount, the interest not needed to  
25 equip, operate, and maintain the network of rescue and  
26 rehabilitation stations, or for appropriate technology development  
27 and research regarding oiled wildlife care, shall be deposited into  
28 the Oil Spill Prevention and Administration Fund, and shall be  
29 available for the purposes authorized by Article 6 (commencing  
30 with Section 8670.38).

31 (2) (A) For each fiscal year, consistent with this article, the  
32 administrator shall submit, as a proposed appropriation in the  
33 Governor's Budget, an amount up to one million five hundred  
34 thousand dollars (\$1,500,000), of the interest earned on the funds  
35 deposited into the Oil Spill Response Trust Fund, for the purpose  
36 of equipping, operating, and maintaining the network of oiled  
37 wildlife rescue and rehabilitation stations established pursuant to  
38 Section 8670.37.5 and for support of technology development and  
39 research related to oiled wildlife care. The remaining interest shall

1 be deposited into the Oil Spill Prevention and Administration Fund  
2 pursuant to paragraph (1).

3 (B) The administrator shall report to the Legislature not later  
4 than June 30, 2002, on the progress and effectiveness of the  
5 network of oiled wildlife rescue and rehabilitation stations  
6 established pursuant to Section 8670.37.5, and the adequacy of  
7 the Oil Spill Response Trust Fund to meet the purposes for which  
8 it was established.

9 (C) At the administrator's request, the funds made available  
10 pursuant to this paragraph may be directly appropriated to a suitable  
11 program for wildlife health and rehabilitation within a school of  
12 veterinary medicine within this state, provided that an agreement  
13 exists, consistent with this chapter, between the administrator and  
14 an appropriate representative of the program for carrying out that  
15 purpose. The administrator shall attempt to have an agreement in  
16 place at all times. The agreement shall ensure that the training of,  
17 and the care provided by, the program staff are at levels that are  
18 consistent with those standards generally accepted within the  
19 veterinary profession.

20 (D) The funds made available pursuant to this paragraph shall  
21 not be considered an offset to any other state funds appropriated  
22 to the program, the program's associated school of veterinary  
23 medicine, or the program's associated college or university, and  
24 the funds shall not be used for any other purpose. If an offset does  
25 occur or the funds are used for an unintended purpose, expenditure  
26 of any appropriation of funds pursuant to this paragraph may be  
27 terminated by the administrator and the administrator may request  
28 a reappropriation to accomplish the intended purpose. The  
29 administrator shall annually review and approve the proposed uses  
30 of any funds made available pursuant to this paragraph.

31 (m) The Legislature finds and declares that effective response  
32 to oil spills requires that the state have available sufficient funds  
33 in a response fund. The Legislature further finds and declares that  
34 maintenance of that fund is of utmost importance to the state and  
35 that the money in the fund shall be used solely for the purposes  
36 specified in subdivision (k).

37 (n) It is the intent of the Legislature, in enacting this section,  
38 that the fee shall not be imposed by a refiner, or a person or entity  
39 acting as an agent for a refiner, on crude oil produced by an  
40 independent crude oil producer.

(o) The Treasurer shall obtain financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, in a form which, in the event of an oil spill, may be drawn upon immediately by the administrator upon making the determinations required by paragraph (2) of subdivision (a) of Section 8670.49. The financial security may be obtained in any of the forms described in subdivision (b) of Section 8670.53.3, as determined by the Treasurer.

(p) This section does not limit the authority of the administrator to raise oil spill response fees pursuant to Section 8670.48.5.

SEC. 7. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) (1) The administrator may only expend money from the fund to pay for any of the following, subject to the lien established in Section 8670.53.2:

(A) To pay the cost of obtaining financial security as authorized by paragraph (5) of subdivision (k) and subdivision (o) of Section 8670.48.

(B) To pay the principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys drawn by the administrator on the financial security obtained by the Treasurer, or the moneys borrowed by the Treasurer, as authorized by paragraph (7) of subdivision (k) of Section 8670.48.

(C) To pay for the construction, equipping, operation, and maintenance of rescue and rehabilitation facilities, and technology development for oiled wildlife care from interest earned on money deposited in the fund as authorized by subdivision (l) of Section 8670.48.

(D) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations pursuant to subdivision (f) of Section 8670.37.5.

(E) To pay for the expansion, in the VTS area, pursuant to Section 445 of the Harbors and Navigation Code, of the vessel traffic service system (VTS system) authorized pursuant to subdivision (f) of Section 8670.21.

(F) To pay for the costs to administer and award California Oil Spill Prevention and Cleanup Technology Grants pursuant to Section 8670.74.

1 (2) If a spill has occurred, the administrator may expend the  
2 money in the fund for the purposes identified in paragraphs (1),  
3 (2), (3), (4), (6), and (9) of subdivision (k) of Section 8670.48 only  
4 upon making the following determinations:

5 (A) Except as authorized by Section 8670.51.1, a responsible  
6 party does not exist or the responsible party is unable or unwilling  
7 to provide adequate and timely cleanup and to pay for the damages  
8 resulting from the spill. The administrator shall make a reasonable  
9 effort to have the party responsible remove the oil or agree to pay  
10 for any actions resulting from the spill that may be required by  
11 law, provided that the efforts are not detrimental to fish, plant,  
12 animal, or bird life in the affected waters. The reasonable effort  
13 of the administrator shall include attempting to access the  
14 responsible parties' insurance or other proof of financial  
15 responsibility.

16 (B) Sufficient federal oil spill funds are not available or will  
17 not be available in an adequate period of time.

18 (3) Notwithstanding any other provision of this subdivision, the  
19 administrator may expend money from the fund for authorized  
20 expenditures when a reimbursement procedure is in place to receive  
21 reimbursements for those expenditures from federal oil spill funds.

22 (b) Upon making the determinations specified in paragraph (2)  
23 of subdivision (a), the administrator shall immediately make  
24 whatever payments are necessary for responding to, containing,  
25 or cleaning up, the spill, including any wildlife rehabilitation  
26 required by law and payment of claims pursuant to Sections  
27 8670.51 and 8670.51.1, subject to the lien established by Section  
28 8670.53.2.

29 SEC. 8. Section 8670.55 of the Government Code is amended  
30 to read:

31 8670.55. (a) The committee shall provide recommendations  
32 to the administrator, the State Lands Commission, the California  
33 Coastal Commission, the San Francisco Bay Conservation and  
34 Development Commission, and the State Interagency Oil Spill  
35 Committee, on any provision of this chapter including the  
36 promulgation of all rules, regulations, guidelines, and policies.

37 (b) The committee may, at its own discretion, study, comment  
38 on, or evaluate, any aspect of oil spill prevention and response in  
39 the state. To the greatest extent possible, these studies shall be  
40 coordinated with studies being done by the federal government,

1 the administrator, the State Lands Commission, the State Water  
2 Resources Control Board, and other appropriate state and  
3 international entities. Duplication with the efforts of other entities  
4 shall be minimized.

5 (c) The committee may attend any drills called pursuant to  
6 Section 8670.10 or any oil spills, if practicable.

7 (d) The committee shall report biennially to the Governor and  
8 the Legislature on its evaluation of oil spill response and  
9 preparedness programs within the state and may prepare and send  
10 any additional reports it determines to be appropriate to the  
11 Governor and the Legislature.

12 (e) On or before August 1, 2005, the committee shall review  
13 the Department of Finance report required under Section 8670.42  
14 and prepare and submit to the Governor and the Legislature  
15 comments on the report, including, but not limited to,  
16 recommendations for improving the state's oil spill prevention,  
17 response, and preparedness program.

18 (f) The committee shall review potential recipients of California  
19 Oil Spill Prevention and Cleanup Technology Grants and make  
20 recommendations to the administrator for awarding grants pursuant  
21 to Section 8670.74.

22 SEC. 9. Section 8670.74 is added to the Government Code, to  
23 read:

24 8670.74. (a) The administrator shall award and administer  
25 competitive grants for the development of improved processes and  
26 technologies for oil spill prevention, containment, and cleanup.  
27 The grants shall be known as California Oil Spill Prevention and  
28 Cleanup Technology Grants and shall provide funds to eligible  
29 recipients for research, testing, and capital matching grants for  
30 bringing emerging technologies to the marketplace. In awarding  
31 the grants, the administrator shall select projects and recipients  
32 that are likely to yield the most benefit in providing the best  
33 achievable technology and best achievable protection pursuant to  
34 this chapter.

35 ~~(b) The administrator shall expend money from the Oil Spill~~  
36 ~~Response Trust Fund in the amount of five million dollars~~  
37 ~~(\$5,000,000) annually to pay for California Oil Spill Prevention~~  
38 ~~and Cleanup Technology Grants.~~

39 *(b) (1) Except as provided in paragraph (2), the administrator*  
40 *may annually expend up to five million dollars (\$5,000,000) from*



1 *the Oil Spill Response Trust Fund to award California Oil Spill*  
2 *Prevention and Cleanup Technology Grants.*

3 (2) *If the administrator determines that the grant proposals*  
4 *received in a calendar year do not merit an allocation of the funds*  
5 *authorized for expenditure by this section, the administrator may*  
6 *defer the expenditure of up to two million five hundred thousand*  
7 *dollars (\$2,500,000) of the money annually authorized for*  
8 *expenditure pursuant to paragraph (1) for a period of not more*  
9 *than three years and shall award a grant using the funds so*  
10 *deferred within that time period.*

11 (c) A grant may be awarded to a state agency, university,  
12 research institution, nonprofit organization, scientist, engineer,  
13 corporation, or private business on a competitive basis using a  
14 selection process established by the administrator.

15 (d) A corporation or private business receiving a grant shall  
16 expend a sum of money not less than two times the grant amount  
17 for the purpose of advancing the project or line of study for which  
18 the grant is awarded.

19 (e) A state agency, university, research institution, nonprofit  
20 organization, scientist, or engineer receiving a grant shall expend  
21 a sum of money equivalent to or greater than the grant amount for  
22 the purpose of advancing the project or line of study for which the  
23 grant is awarded.

24 (f) Prior to the awarding of a grant, the Oil Spill Technical  
25 Advisory Committee, created pursuant to Section 8670.54, shall  
26 review grant applications determined by the administrator to be  
27 most promising for award and make recommendations to the  
28 administrator.

29 (g) In selecting a grant recipient, the administrator shall consider  
30 the recommendations of the Oil Spill Technical Advisory  
31 Committee and the comprehensive evaluation of emerging  
32 technologies completed pursuant to Section 8670.13.

33 (h) A grant recipient shall use the grant award to fund only the  
34 project described in the recipient's application.

35 (i) A grant recipient shall not use the grant funds to fund or  
36 otherwise cover costs of an existing or proposed project or activity  
37 not included in the application.

38 (j) Any grant funds allocated to a project that exceed the actual  
39 cost of completing the project as outlined in the recipient's

1 application shall be returned to the Oil Spill Response Trust Fund  
2 and shall not be used by the grant recipient for any other purpose.

3 (k) If the administrator or an employee or agent of the Office  
4 of Oil Spill Prevention and Response, or a member of his or her  
5 immediate family, is employed by a grant applicant, the employer  
6 of a grant applicant, or a consultant or independent contractor  
7 employed by the grant applicant, the administrator, employee, or  
8 agent shall make that disclosure to the administrator or the deputy  
9 administrator and shall not participate in or make recommendations  
10 on the grant proposal of that applicant.

11 (l) (1) To the extent that intellectual property is developed under  
12 this section, an equitable share of rights in the intellectual property  
13 or in the benefits derived therefrom shall accrue to the State of  
14 California.

15 (2) The administrator may determine what share of the  
16 intellectual property, or the benefits derived therefrom, shall accrue  
17 to the state. The administrator may negotiate sharing mechanisms  
18 for intellectual property or benefits with award recipients.